

United States District Court

**EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

TUTOR TIME FRNACHISE, LLC, ET AL. §

V. §

THE 3 R'S CHILD CARE, INC. §

CASE NO. 4:05CV177
(Judge Schneider/Judge Bush)

**MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the Report of the United States Magistrate Judge in this action, this matter having been heretofore referred to United States Magistrate Judge Don D. Bush pursuant to 28 U.S.C. § 636. On September 30, 2005, the Report of the Magistrate Judge was entered containing his proposed findings of fact and recommendations that Plaintiffs' Motion for Summary Judgment be granted, that declaratory judgment be entered in Plaintiffs' favor, and that Defendant's Motion for Summary Judgment be denied.

Having received the report of the United States Magistrate Judge, and having made a *de novo* review of the objections filed by Defendant thereto, this Court is of the opinion that Defendant's objections are without merit and that the findings and conclusions of the Magistrate Judge are correct. The Court thus adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is, therefore,

ORDERED, ADJUDGED and DECREED that Plaintiffs' Motion for Summary Judgment is GRANTED and Defendant's Motion for Summary Judgment is DENIED. It is further

ORDERED by Declaratory Judgment that: (1) the "Commencement Date" of the Franchise Agreement was January 29, 2001, the date on which Defendant opened its first learning center; and (2) the earliest date on which the initial term of the Franchise Agreement can expire is January 29,

2011. It is finally

ORDERED that each party shall bear its own costs and fees incurred in this action.

SIGNED this 18th day of October, 2005.

A handwritten signature in black ink, reading "Michael H. Schneider". The signature is written in a cursive style with a large, stylized "M" and "S".

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE